**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO. 2849 OF 2004**

**IN**

**SUIT NO. 1072 OF 1995**

Dilip M.Duhilani ..Plaintiff

versus

Smt. Sumitra Rani & Ors. ..Defendants

And

Bhajan Singh & Ors. ..Applicants

Mr. C. S. Kapadia i/b. Anup Khaitan & Co. for the Plaintiff.

Mr. A. Abdi for the Defendants.

**CORAM : D. G. DESHPANDE,J.**

**DATE : 26TH OCTOBER 2004.**

**P.C. :**

1. Heard learned counsel for the parties. This notice of motion is taken out by the plaintiff for restoration of the suit which was dismissed for default on 20.9.2003. Though there is a delay in taking out this notice of motion, counsel for the plaintiff contended on the basis of the affidavit in support that inspite of the dismissal of the suit, the plaintiff is paying royalty to the Court Receiver.

2. The notice of motion is opposed by the defendants on the ground that the plaintiff was not regular in payment of the royalty. That question can be sorted out subsequently.

3. Looking to the facts of the case, the notice of motion is allowed. Suit is restored to file. It is open to the defendants to take out appropriate proceedings for modifying the order or for setting aside the order of the Court Receiver on account of irregularity in payment. Notice of Motion is disposed of.

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